

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:
ERIC N. REYBURN
Debtor

Chapter 11
Case No. 09-20683-FJB

**DEBTOR'S MOTION FOR CONTEMPT AND SANCTIONS
AGAINST DEUTSCHE BANK NATIONAL TRUST COMPANY AND SLS**

Eric N. Reyburn (the "Debtor"), through his counsel Michael Van Dam ("Counsel") files this Motion for Contempt and Sanctions against Deutsche Bank National Trust Company and its servicer SLS for their failure to comply with the order confirming the Debtor's Chapter 11 Plan. In support of the relief requested in the Motion, the Debtor respectfully represents as follows:

FACTUAL ALLEGATIONS

1. The Debtor filed this case on November 4, 2009 (the "Filing Date").
2. The First Amended Chapter 11 Plan was confirmed on June 20, 2011 (See "Order" at Docket 720).
3. As of this filing, Deutsche Bank National Trust Company ("Deutsche") purports to hold a mortgage on the Debtor's property located at 55 Elm Street, Cambridge, Massachusetts. The loan appears to be serviced by SLS.
4. Deutsche continues to compute the loan under the pre-confirmation contractual terms. There is no doubt that the Deutsche is in contempt of the Order.
5. The Debtor's First Amended Chapter 11 Plan, as for Class 20, calls for a \$550,000 principal balance fixed at a rate of 4.5% per annum over 30 years. See

Statement attached hereto denoting an interest rate of 5% and a deferred principal balance of \$290,000.

RELIEF REQUESTED AND BASIS THEREFOR

6. Deutsche and their servicer SLS's failure to abide by the Order has caused the Debtor significant problems. The Debtor has attempted to resolve this without Court intervention. The Debtor has from the outset of confirmation attempted to pay the note, however, SLS will currently not accept payment.
7. By this Motion, the Debtor requests that this Court enter an Order pursuant to section 105(a) of the Bankruptcy Code and rule 9020 of the Federal Rules of Bankruptcy Procedure: (1) holding that Deutsche is in civil contempt for having failed to abide by the Order; (2) allowing Deutsche to cure the contempt by immediately updating its records to reflect the parameters outlined in the Plan; (3) reimbursement of the Debtor's legal fees and costs; and (4) reimbursement of filing fees along with fees due to the United States Trustee incurred while the case remains open (5) reimburse the Debtor for his time and expense; and (6) any other relief, including punitive damages, this Honorable Court deems just and proper.

WHEREFORE, the Debtor requests relief as requested herein.

Eric Reyburn
By his attorney,

/s/ Michael Van Dam
Michael Van Dam, Esq. BBO# 653979
Van Dam Law LLP
233 Needham Street
Newton, MA 02464
Tel: 617-969-2900
mvandam@vandamlawllop.com

Dated: February 2, 2017

8742 Lucent Boulevard, Suite 300, Highlands Ranch, CO 80129

Mortgage Statement
Statement Date: 11/18/16

+ 0688519 00000062619 9SPS1 0916845
ERIC N REYBURN
204 GDN ST
CAMBRIDGE MA 02138-1258

Account Number
Payment Due Date
12/01/16
Total Amount Due [‡] \$76,550.65
If payment is received after 12/16/16, \$0.00 late fee will be charged.

PROPERTY CLOSURE
CLASS 20

Property Address:
55 ELM ST
CAMBRIDGE MA 02139

Account Information	
Outstanding Principal	\$518,949.17
Escrow Balance	\$-6,173.92
Partial Payment (Suspense)*	\$1,886.96
Deferred Principal:	\$290,000.00
Deferred Interest:	\$0.00
Other Deferred Amounts:	\$0.00
Interest Rate	5.000%
Prepayment Penalty	No

Explanation of Amount Due	
Principal	\$862.34
Interest	\$2,090.18
Escrow (for Taxes and Insurance)	\$627.68
Optional Product	\$0.00
Regular Monthly Payment	\$3,580.20
Total New Fees Charged	\$0.00
Past Due Amounts	\$74,857.41
Partial Payment (Suspense)*	\$1,886.96
TOTAL AMOUNT DUE [‡]	\$76,550.65

Transaction Activity (10/11/16 to 11/18/16)

Date	Description	Total	Interest	Principal	Escrow (for Taxes and Insurance)	Optional Product	Fees/Charges	Partial Payment (Suspense)*
10/28/16	ESCROW DISBURSEMENT - TAXES	3,161.82	0.00	0.00	-3,161.82	0.00	0.00	0.00

Past Payments Breakdown

	Paid Last Month	Paid Year to Date
Principal	\$0.00	\$4,673.01
Interest	\$0.00	\$13,042.11
Escrow (Taxes and Insurance)	\$0.00	\$3,769.73
Fees/Charges/Optional Product	\$0.00	\$0.00
Partial Payment (Suspense)*	\$0.00	\$1,886.96
Total	\$0.00	\$23,371.81

Important Messages

You are currently due for the 03/01/15 payment.

* Partial Payments: Any partial payments that you make are not applied to your mortgage, but instead are held in a suspense account. If you pay the balance of a partial payment, the funds will then be applied to your mortgage. However, if the loan is in foreclosure, unless funds are received pursuant to an agreed upon loss mitigation program, any additional funds received will be returned to you.

[‡] Amount to bring loan current: Please note, if your account is past due, this amount may not include all fees or other amounts necessary to fully reinstate your loan. Please contact SLS at 1-800-306-6059 for a full reinstatement quote.

Delinquency Notice

If You Are Experiencing Financial Difficulty: You may contact the U.S. Department of Housing and Urban Development (HUD) for a list of homeownership counselors or counseling organizations in your area, call 1-800-569-4287 or go to <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of November 18, 2016 you are 628 days delinquent on your mortgage loan. Your loan is in foreclosure, the first notice or first legal filing has been completed on your loan.

Recent Account History

- o Past due amount as of 06/01/16: \$55,069.45
- o Payment due 07/01/16: Amount Due \$3,580.20
- o Payment due 08/01/16: Amount Due \$3,580.20
- o Payment due 09/01/16: Amount Due \$3,580.20
- o Payment due 10/01/16: Amount Due \$3,580.20
- o Payment due 11/01/16: Amount Due \$3,580.20
- o 12/01/16: Current Payment Due \$3,580.20
- o Total Unpaid Fees, Charges, and Uncollected Escrow Amount: \$0.00
- o Total \$76,550.65 due. You must pay this amount to bring your loan current.[‡]

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CERTIFICATE OF SERVICE

I, Michael Van Dam, hereby certifies that the attached Motion has been served postage prepaid upon the following parties this 1st day of February, 2017:

SLS
8742 Lucent Boulevard
Suite 300
Highlands Ranch, CO 80129

Bendett & McHugh
Atty for Deutsche Bank National Trust Company
160 Farmington Avenue
Farmington, CT 06032

Respectfully submitted,
Debtor, by his Attorneys,

/s/ Michael Van Dam
Michael Van Dam, Esq.
(BBO # 653979)
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233 Needham Street
Needham, MA 02464
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